

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	
	:	CONSENT PRELIMINARY ORDER
- v. -	:	OF FORFEITURE/
	:	<u>MONEY JUDGMENT</u>
HENRY FERMIN,	:	
	:	22 Cr. 119 (PMH)
Defendant.	:	
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WHEREAS, on or about February 23, 2022, HENRY FERMIN (the “Defendant”), with another, was charged in a three-count Indictment, 22 Cr. 119 (PMH) (the “Indictment”), with conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Count One); theft of government funds, in violation of Title 18, United States Code, Sections 641 and 2 (Count Two); and aggravated identity theft, in violation of Title 18, United States Code, Sections 1028A(a)(1), 1028A(b), and 2 (Count Three);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One and Two of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment;

WHEREAS, on or about July 19, 2023, the Defendant pled guilty to Counts One, Two, and Three of the Indictment pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Counts One and Two of the Indictment and agreed to forfeit, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is

derived from proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One and Two of the Indictment that the Defendant personally obtained;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$3,294,368.50 in United States currency representing the amount of proceeds traceable to the offenses charged in Counts One and Two of the Indictment that the Defendant personally obtained, for which the Defendant is jointly and severally liable with his co-defendant, Yohauris Rodriguez Hernandez, against whom a forfeiture money judgment has been entered in this case (Dkt. 73); and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offenses charged in Counts One and Two of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney, Kevin Sullivan, of counsel, and the Defendant, and his counsel, Jay Heinrich, Esq., that:

1. As a result of the offenses charged in Counts One and Two of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$3,294,368.50 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offenses charged in Counts One and Two of the Indictment that the Defendant personally obtained, for which the Defendant is jointly and severally liable with his co-defendant, Yohauris

Rodriguez Hernandez, against whom a forfeiture money judgment has been entered in this case (Dkt. 73), shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, HENRY FERMIN, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Illicit Finance and Money Laundering Unit, 26 Federal Plaza, New York, New York 10278 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

By: \_\_\_\_\_

KEVIN SULLIVAN  
Assistant United States Attorney  
26 Federal Plaza  
New York, NY 10278  
(212) 637-1587

10/17/24  
DATE

HENRY FERMIN

By: \_\_\_\_\_

HENRY FERMIN

10/17/24  
DATE

By: \_\_\_\_\_

JAY HEINRICH, ESQ.  
The Heinrich Law Group, P.C.  
932 Sheridan Avenue  
Bronx, NY 10451  
*Attorney for the Defendant*

10-17-24  
DATE

SO ORDERED:

\_\_\_\_\_  
HONORABLE PHILIP M. HALPERN  
UNITED STATES DISTRICT JUDGE

10/17/24  
DATE